



LAWYER TO LAWYER MENTORING PROGRAM

WORKSHEET MM

ALTERNATIVE DISPUTE RESOLUTION ("ADR")

Worksheet MM is intended to facilitate a discussion about the types of alternative dispute resolution (such as mediation, binding and non-binding arbitration, high-low arbitration, early neutral evaluation, court-annexed arbitration, summary jury trials, etc.) and the benefits and disadvantages of each.

WHAT WENT WELL?

Start by sharing with each other a brief story of something that went well in your practice this week:

Share your reflection by on one of these questions: What caused the good event? What does it mean? How did you contribute? Others? How can you have more such events in the future?

ACTIVITIES FOR TODAY

- Discuss when it is appropriate to counsel clients on how to resolve disputes by alternative methods. Should an attorney try to influence his or her clients to pursue a method of alternative dispute resolution?
- Describe situations where a client may be better served by avoiding litigation. Discuss the principles in the attached article. Stewart Levine, *Developing the Attitude of Resolution*, LAW PRACTICE TODAY, Sept. 2005.
- Discuss the following types of alternative dispute resolution (among others you think of), the types of cases for which those forms of ADR are typically used, and the benefits and disadvantages of each:
 - Mediation
 - Binding and non-binding arbitration
 - High-low arbitration
 - Early neutral evaluation
 - Court-annexed arbitration
 - Summary jury trials
 - Private judges
- Share with the new lawyer stories of your successes with ADR.



- Discuss when to consider ADR as a possible means for resolving a case (particularly in the new lawyer's practice area) and how to talk to your client about it.
- Review the *Bylaws of the Dispute Resolution Section of the Tennessee Bar Association*, attached, and discuss practical applications of those bylaws.
- Identify local resources for attorneys who would like to use ADR for resolving cases, including local ADR programs, court programs, mediation or arbitration services, etc.
- Discuss training opportunities and other resources for lawyers who are interested in becoming mediators or arbitrators.

ACTION STEPS

End the session by discussing what action steps you can take to either improve or set yourself up for future success based on today's discussion. Discuss how one or more of your Signature Strengths can help you achieve success in these steps.



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Bylaws of the Dispute Resolution Section of the Tennessee Bar Association

Article I Name and Purpose

1.1 Name

This section shall be known as the Dispute Resolution Section of the Tennessee Bar Association.

1.2 Purpose

The general purposes of this section shall be:

1. To provide a forum to discuss and promote the use of all forms of alternative dispute resolution ("ADR").
2. To educate lawyers, law firms, the judiciary, the business community and the general public as to the theory, practice, and benefits of ADR.
3. To encourage cooperation among local bar associations concerning ADR.
4. To provide continuing education and training opportunities in the theory and practice of ADR.
5. To provide assistance to local bar associations and organizations considering ADR.
6. To promote high standards of practice in the area of ADR.
7. To promote research and evaluation of ADR.

1.3 Principal Office

The principal office of this section shall be maintained in the offices of the Tennessee Bar Association.

1.4 Fiscal Year

The fiscal year of this section shall coincide with that of the Tennessee Bar Association.

Article II Membership

2.1 Enrollment

Any member in good standing with the Tennessee Bar Association shall, upon request to the treasurer of the Tennessee Bar Association, be enrolled as a member of the section by the payment of the annual section dues. The term of membership in the section shall be for a period of one year.

2.2 Membership

Members so enrolled and whose dues are paid pursuant to the provisions of this Article shall constitute membership in the section.

2.3 Dues

Dues for membership in the section shall be initially set at \$20 per year, payable upon enrollment to the TBA at its headquarters in Nashville, and thereafter, annual dues shall be paid in advance and are payable on the first day of July of each year for the 12-month period beginning on that date.

2.4 Delinquency

Any member of the section whose annual dues shall be more than six (6) months past due shall thereupon cease to be a member of the section.

Articles III Committees

A board of this section is authorized to establish or to empower the chair of this section to establish such committees as she/he may deem necessary and desirable to promote effectively the activities of this section.

**Articles IV
Meetings**

4.1 Annual Meeting

The annual meeting of the section shall be held in conjunction with the annual meeting of the Tennessee Bar Association.

4.2 Quorum

The members of the section present at any meeting shall constitute a quorum for the transaction of business.

4.3 Controlling Vote

Action of the section shall be by majority vote of the members present.

4.4 Agenda

Among the business to be transacted at the annual meeting by the membership shall be the election of officers and board representatives.

4.5 Special Meetings

A special meeting of the membership of the section may be called by the chair with approval of the board of governors of the section and at such time and place as the board may determine.

**Article V
The Board**

5.1 Powers

The board of this section (board) shall manage the affairs of the section.

5.2 Composition

The board shall be composed of the following persons:

1. The officers;
2. The immediate past-chair;
3. Three governors to be elected by members of the section as provided by Article VII below; and
4. A liaison appointed by the Tennessee Bar Association's Young Lawyers Division from among its members, shall serve a term of one year.

5.3 Controlling Vote

Action of the board shall be by majority vote. Members of the board, when personally present at a meeting, shall vote in person, and when absent, may communicate their vote in writing on any proposition to the secretary/treasurer, and have it counted with the same effect as if cast personally at such meeting.

5.4 Meetings

The board shall meet at least twice a year (with one meeting to coincide with the annual meeting of the section) and, may meet at such additional times as called by the chair upon written notice.

5.5 Poll of Board

A meeting is not essential for action by the board, provided that a response is sought from all members of the board. A chair may, upon written request of three members of the board, submit or cause to be submitted in writing to each member of the board, any proposition upon which the board may be authorized to act. The members of the board may vote upon such proposition so submitted by communicating their vote orally or in writing to the secretary/treasurer, who shall record the same upon the minutes. The adoption of any proposition submitted to the board shall require an affirmative vote of the majority of the members of the board.

5.6 Executive Committee

There shall be an executive committee, which shall consist of the officers and the immediate past-chair, who shall have full authority to act for the section at all times between meetings of the board.

5.7 Referendum

The board may direct that a matter be submitted to the members of the section for a vote by mail. Such action shall be effected by a majority of the votes received in accordance with the rules fixed by the lower board and as conducted and certified by the secretary/treasurer.

**Article VI
Officers**

6.1 Officers

The officers of the section shall be the chair, the vice chair and the secretary/treasurer.

6.2 Chair

The chair, or the vice chair in the absence of the chair, shall:

1. Preside at all meeting of the section and vote for the board;

2. Formulate and present at each meeting of the Tennessee Bar Association a report of the work of the section for the closing year;
3. Appoint all committee chairs and committee members of the section who are to hold office during the chair's term; and
4. Plan for and supervise the section during his or her term of office, subject to the approval of the board.

6.3 Vice Chair

The vice chair shall aid the chair in the performance of the latter's responsibility in such a manner and to such an extent as the chair may designate.

6.4 Secretary/Treasurer

The secretary/treasurer shall:

1. Be the custodian of all books, papers, documents and other property of the section;
2. Keep a true record of the proceedings of all meeting of the section and of the board;
3. Keep an accurate record of all moneys appropriated and expended for the use of the section, and shall keep counsel duly informed of the section's account balance; and
4. To the extent necessary, utilize the executive director and director of sections in assisting him/her in performing his/her duties.

**Article VII
Elections**

7.1 Elective Offices

At each annual meeting of the section, the membership shall elect:

1. A vice chair;
2. The secretary/treasurer;
3. One board representative from each of the three grand divisions of the state. The board representatives shall be elected from the grand division in which the annual meeting is held.

7.2 Eligibility

A nominee for any elected position must be a member of the Tennessee Bar Association and of the section at the time of his or her election. No person who has served a full term as chair or vice chair shall be eligible for re-election to said position for a period of three years following the expiration of his her term in said position. No board members may serve more than two successive terms of office.

7.3 Nominations

The chair may appoint a Nominating Committee which shall make and report to the section nominations for such offices and positions as are scheduled to be filled at the annual meeting. Nominations shall be permitted from the floor.

7.4 Voting

Each position to be filled by election shall be voted upon separately. Elections shall be by a majority of the votes cast.

7.5 Vacancies

If any office or position, other than that of chair, shall become vacant during the period between the annual meeting of the section, the officer position shall be filled by the board until the next annual meeting of the section.

**Article VIII
Adoption of the Amendment of Bylaws**

8.1 Adoption of Bylaws

Adoption of bylaws shall become effective upon their approval by the Board of Governors of the Tennessee Bar Association.

8.2 Amendment

These bylaws shall be amended at any annual meeting of the section present and voting. Any amendment so adopted shall become effective only to the extent that it is not inconsistent with the Bylaws of the Tennessee Bar Association.

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- Update Information
- Celebrate Pro Bono
- Corporate Counsel Pro Bono Initiative
- Law Student Outreach
- Leadership Law
- Public Education
- Tennessee High School Mock Trial
- TLAP
- Youth Courts
- 2012 TBA Convention
- Task Force on Judicial Conduct Rules
- TBASCUS
- Tennessee Legal Organizations
- YLD
- YLD Fellows
- Disciplinary Listings
- TBAConnect
- TBAToday
- TBA All Access Network
- Tennessee Bar Journal
- Tennessee Volunteer Attorney
- Celebrate Pro Bono
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